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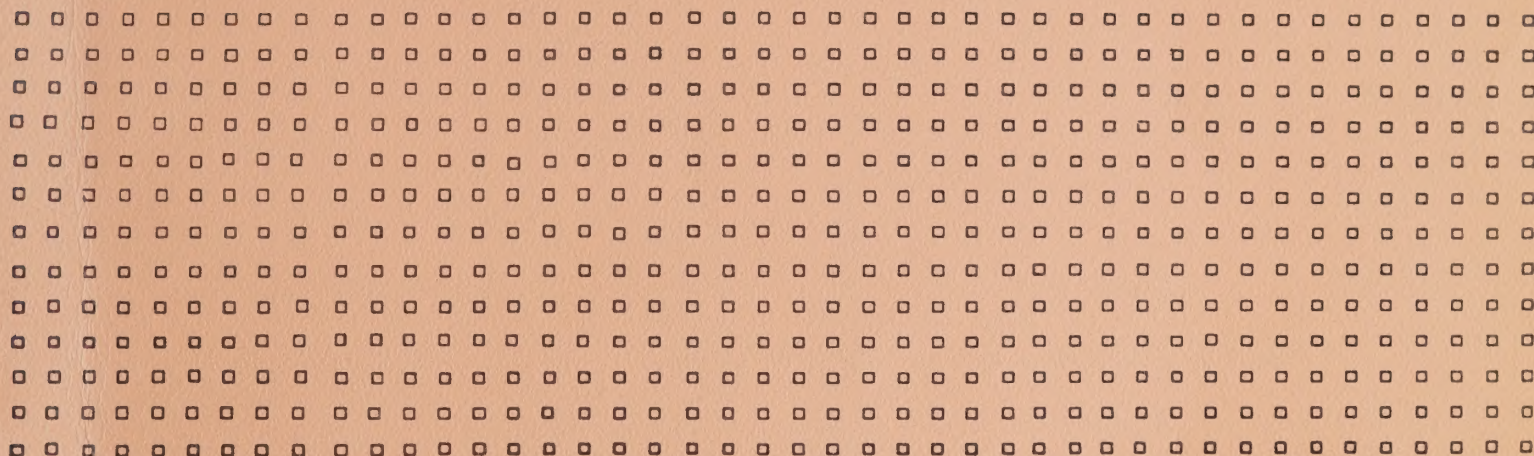
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HOUSING DISCRIMINATION IN BERKELEY



**A Report by a Citizens Committee
to the Community Welfare Commission**

Berkeley, California

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SUMMARY OF REPORT OF CITIZENS' COMMITTEE TO STUDY
DISCRIMINATION IN HOUSING IN BERKELEY

After nine months of study, a Citizens' Committee appointed by the City Council has advised the Community Welfare Commission and the City Council that discrimination in housing is widespread in Berkeley. Dates for a study session on November 20, 1962 (9:30 A.M.) and a public hearing on November 27, 1962 (8:00 P.M.) have been set by the City Council to consider the Committee Report, which recommends as follows:

1. That a Commission on Intergroup Relations be created which will have the following duties:

- a. A continuing study of discrimination in housing for the information of both the City Council and the citizens of the community;
- b. A program of public education and public relations to attempt to mitigate and adjust problems arising from discriminatory practices;
- c. Investigation of complaints received from parties and initiation of investigations when necessary;
- d. Conciliation of disputes between parties arising from complaints of discrimination in housing;
- e. Conducting of public hearings between the parties in the event that the conciliatory process fails.

2. That an ordinance be created making it unlawful to discriminate on the basis of race, color, creed or national origin, in the sale or rental or transfer for value of a housing unit to another person. Exceptions are made for religious and fraternal institutions and in the rental of structures containing no more than two units if the lessor be in residence.

This ordinance would make it unlawful to incite or induce, either by word or deed, another to violate its provisions.

The proposed ordinance provides for the opportunity for the aggrieved person to seek civil remedy through the courts and for the penalties of a misdemeanor.

The Citizens' Committee recommended unanimously the creation of a Commission on Intergroup Relations and the majority of the Committee recommended a housing ordinance with penalties.

3. Recognizing that the problems created by discrimination in housing transcend municipal boundaries, the Committee recommended that the City Council adopt a course of action designed to influence our state and national governments to create adequate and unequivocal legislation which will make discrimination in housing unlawful, with appropriate conciliatory machinery to facilitate the large-scale adjustment in attitudes and practices necessary.

The Community Welfare Commission has approved the Citizens' Committee Report and unanimously endorsed the recommendations, with certain modifications, as follows:

1. That the responsibilities of the Community Welfare Commission be enlarged and that the Commission be given the necessary powers to enable it to serve as a Commission on Intergroup Relations which will be concerned with all problems of discrimination in Berkeley;

2. That the organization of the Community Welfare Commission be modified to provide for a Board of Intergroup Relations of four members to be appointed by the City Council; this Board is to be given the necessary powers to provide for investigation and conciliation of complaints of discrimination and to hold public hearings when attempts at conciliation fail;

3. That the City Council encourage all levels of government to take action in the field of housing discrimination;

4. That an ordinance be enacted making unlawful certain specific acts of discrimination in housing and providing for the penalties of a misdemeanor for violation of the ordinance.

The Committee arrived at its conclusions and recommendations after hearing the testimony of individuals who believed they had been discriminated against, on interviews with members of the real estate industry and on the results of surveys of housing available to minority group people. The evidence clearly indicated that housing opportunities are not equal for all people in Berkeley and the Committee concluded that "the accumulated results of discrimination and segregation, burdening all citizens with social, economic and spiritual loss, are of such magnitude as to warrant immediate action."



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C I T Y O F B E R K E L E Y

CITIZENS' COMMITTEE TO STUDY DISCRIMINATION IN HOUSING
IN BERKELEY

R e p o r t

to the

COMMUNITY WELFARE COMMISSION

July 1962

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Dr. T. K. Cleveland, Liaison from the Community
Welfare Commission

Mrs. Florence Casaroli, Acting Executive Secretary,
Community Welfare Commission
Secretary of the Committee

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TABLE OF CONTENTS

Page

Letter of Transmittal

Report to the Community Welfare Commission

I	Introduction	1
II	Discrimination in Housing Exists in the City of Berkeley	2
A	Committee Interviews with Individuals	3
B	Summary of Controlled Tests	3
C	Report of Telephone Survey	3
D	Report by N.A.A.C.P.	4
E	Summary of Real Estate Interviews	4
F	Patterns of Residential Housing	4
III	Present State of the Law in California	5
IV	Other Communities' Solutions	6
V	Recommendations	7
VI	Acknowledgments	10
	Bibliography	12

(Note: The Appendices are printed in a separate publication which may be obtained from the Community Welfare Commission office, City Hall, Berkeley 4, California.)

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July 30, 1962

To the Community Welfare Commission
of the City of Berkeley
City Hall
Berkeley, California

Ladies and Gentlemen of the Commission:

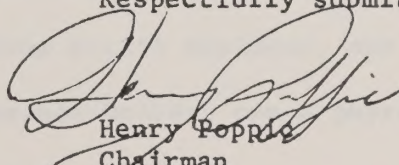
The Committee to Study Discrimination in Housing in Berkeley herewith respectfully presents its report.

As Chairman of the Committee, I speak for all the members in thanking the City Council and the Commission for giving us an opportunity to enlarge our own horizons and to present for your consideration what we believe to be recommendations which will relieve some of the frictions and aggravations existing in our community.

Personally, I should like to thank the Council for selecting such an outstanding group of Berkeley citizens to serve with me on this Committee.

As its Chairman, I am pleased to report to you that the dedication of the members of the Committee, their punctual attendance at numerous long sessions, and the extent of the work they did outside Committee meetings, set an example for citizen committee participation beyond anything I have experienced in the past.

Respectfully submitted,



Henry Poppe
Chairman

CITIZENS' COMMITTEE TO STUDY DISCRIMINATION IN HOUSING IN BERKELEY

Report to the Community Welfare CommissionI. INTRODUCTION

The Community Welfare Commission, in its belief that discrimination in housing is of "vital concern to the entire community," requested the Berkeley City Council to appoint a representative Citizens' Committee to "determine to what degree discrimination in housing exists in Berkeley and to recommend ways in which changes can be made." The Committee was appointed in August, 1961, and on September 28, 1961, held its first meeting. Since that date the Committee met at least twice monthly to July 2, 1962. In addition, subcommittees have held numerous meetings.

The meetings were open to the public and were attended by a number of interested Berkeley citizens. On two occasions the Committee met in closed conference sessions so that the anonymity of individuals and organizations testifying before the Committee could be respected.

The Committee membership was widely representative, a cross-section of various cultural, racial and religious groups. Three members were in the real estate business, three were from the legal profession, two were from industry, two were housewives, one was from retail business, one a bookkeeper, one a credit union employee, one an insurance broker, one a physician, one a physicist, one a printer and one a research sociologist.

In addition to the work of the Committee members themselves, many individuals and organizations were consulted, and contributed assistance and information.

The Committee was charged with determining the degree to which discrimination in housing in Berkeley exists and, from its findings, make recommendations.

Its first determination was that of definition. The Committee adopted the following definitions for the purpose of its study:

- a. DISCRIMINATION shall mean any difference in treatment based on race, creed, color, national origin or ancestry, and shall include segregation, except that it shall not be discrimination for any religious or denominational institution to devote its facilities, exclusively or primarily, to or for members of its own religion or denomination, or to give preference to such members, or to make such selection as is calculated by such institution to promote the religious principles for which it is established or maintained.
- b. HOUSING shall include every type of structure used as a residence, or the use of any type of structure for residential purposes, whether owned or rented, for any period of time.

The Committee's course of study follows:

1. Review of census records of 1960 and earlier for Berkeley.
2. Investigation by personal interview, either before the whole Committee or subcommittees thereof, of lenders, real estate brokers and individuals.
3. Study of reports from organizations.
4. Study of solutions in other communities.
5. Study of possible solutions in Berkeley.

From these studies, the Committee has arrived at the following finding and recommendations.

II. DISCRIMINATION IN HOUSING EXISTS IN THE CITY OF BERKELEY

Accumulated evidence shows that discrimination in housing within the City is widespread and general, in both rental and sale of housing.

The Committee unanimously approved as "evidence of discrimination" the following:

A. A series of Committee interviews with individuals who believed they had been discriminated against in their search for housing.

All individuals to appear before the Committee were either professionally employed or were University students at the graduate level; all had incomes commensurate with the cost of the housing desired; most of them were married. They all had more than one rejection based on race and the methods of rejection were similar. Applicants were confronted with such statements as:

"The house has been taken off the market." (This proved to be untrue.)

"You'll have trouble in this neighborhood - let me show you a place in another part of town."

"You won't be happy here."

"The neighbors won't like it."

"I'm not prejudiced, but my tenants will move out." (Appendix A)

B. A summary of controlled tests made by the Committee on Racial Equality and the Encampment for Citizenship, on the availability of housing listed with real estate firms, as well as that listed in newspaper advertising, to members of nonwhite groups. (Appendix B)

Eight real estate salesman in seven firms were approached in regard to available rentals or sales, using the team method (a Negro couple making an initial inquiry, followed by a Caucasian couple making the same request). It was found that discrimination was practiced in all eight inquiries, by such methods as giving only South Berkeley listings to the non-Caucasian couple or telling them no listings were available. (Appendix B)

C. A telephone survey reported by the Japanese American Citizens' League covering the availability of advertised housing to minority people. On February 6, 7 and 8, 1962, J.A.C.L. made 141 telephone inquiries about housing advertised in the Berkeley Gazette. Of these, 24 had been rented or sold prior to the call, leaving 117 for rent or sale. Of this total, 94 or 80% were not available to

Negroes. Of the 14 apartments available to Negroes, 10 were located in predominately Negro districts. Nine out of 22 rooms were available to Negroes and only one house out of 9 advertised for sale was available to Negroes. (Appendix B)

D. A report submitted by N.A.A.C.P. on a series of contrasting experiences encountered by Negro and Caucasian prospective home buyers. The discriminatory practices encountered paralleled those of previous tests. (Appendix B)

E. Interviews and statements of those engaged in the real estate business helped to form impressions of the functioning of the real estate market in Berkeley. A total of 15 brokers were interviewed by ten members of the Committee. Ten brokers were selected at random from telephone book listings and five brokers were selected from among the industry leaders who were believed to exert influence on the policies of the Berkeley Realty Board and the pattern of real estate practices in general. Information derived from interviews follows:

1. Housing opportunities are not equal for all Berkeley residents.
2. Generally, business patterns were segregated in the same way as living patterns.
3. Practices in regard to showing of houses to minority buyers varied among brokers. Practices concerning listing of property also varied.
4. Some brokers had not and would not make a "first entry."
5. Most brokers did not believe property values decline when non-white families move into a white neighborhood. (Appendix C)

F. To some extent, the patterns of residential housing in Berkeley gave evidence of housing discrimination. While Berkeley has experienced a slight decline in population since 1950, the proportion of nonwhites has increased from 15.4% in 1950 to 26.1% in 1960, with concentration of nonwhites continuing in the southern and western sections; members of "other races" (other than white

or Negro) have moved into more sections of the City in larger proportion than their per cent of the 1950 or 1960 total population, in contrast to the relatively limited mobility shown by Negroes. (Appendix D)

The Berkeley pattern appears to be one of some interracial sharing of neighborhoods at the same time that segregation is increasing. A major problem in the housing situation in Berkeley is overcrowding, with 12.9% of all housing units occupied by nonwhites overcrowded, in contrast to 3.0% of all units occupied by whites. (Appendix D)

* * *

The course of investigation revealed that individuals in each facet of the housing market evinced concern over discriminatory practices, but each believed that pressures outside his direct control forced him to conform to discriminatory patterns. Thus, the apartment house manager or owner feared reaction from his tenants, the homeowner-seller feared his neighbor's reaction, the real estate broker feared the effect upon his business and felt constrained to accede to his seller's wishes.

III. THE PRESENT STATE OF THE LAW IN CALIFORNIA

In the course of its investigation, the Committee reviewed existing State legislation in the area of discrimination in housing.

Sections 35700-41 Health and Safety Code, known as the "Hawkins Act," forbid discriminatory practices in certain publicly assisted housing and provide for damages to be awarded to an aggrieved person.

Sections 51 and 52 Civil Code, known as the "Unruh Act," deal with discrimination in business generally and provide for damages to be awarded to an aggrieved person.

Subsequent to the enactment of this legislation, a series of cases were presented to the California Supreme Court which resulted in a number of decisions

defining and interpreting the statutory law. The leading case is Burks v. Poppy Construction Co. 57 AC 503, 20 Cal Rptr 609. In this decision, the Court interpreted the Unruh Act as applying to certain real estate transactions. Whether it applies to all real estate transactions is still a matter of question, particularly in the case of an individual owner who sells his home.

For nearly all persons engaged in real estate transactions, the present State law makes available or threatens a potential suit for damages, should there be any alleged discriminatory practices. This could lead to less discrimination in housing, but may lead also to costly civil law suits, time-consuming court appearances, and placing the solution of a community's discrimination problems on an adversary basis, thus breeding hostilities and increasing friction.

The main problem appears that of maintaining sound interracial relationships based on mutual good will and respect when the law as it now stands requires a court fight to establish the rights of minority persons to their fair participation in the housing market.

IV. OTHER COMMUNITIES' SOLUTIONS

In addition to its consideration of California law, the Committee reviewed legislation from other communities throughout the nation and some of the specialized literature available in the field. A resume of housing ordinances and other measures and reported experiences in connection with their administration appear in Appendix E. A bibliography of studies appears at the conclusion of this report.

From these studies it is apparent that the problem of discrimination in housing is no respecter of municipal or state boundaries. Berkeley's problems are reflected in the problems reported from other areas, but we believe in Berkeley's capacity to begin to solve its situation locally.

Studies by others (see Bibliography) and opinions of Berkeley real estate brokers (Appendix C) demonstrate that the fears of depressed prices have not been substantiated in actual practice. Therefore, the effect of present State law on real estate prices can be anticipated to be minimal.

One of the major areas of misunderstanding in connection with all legislation at every level of government in connection with discrimination in housing is the belief that a housing facility must be sold or rented to a member of a minority group because he is a member of such group, whereas in actuality, such regulation is directed to the exact converse; in other words, a rental or sale of a housing accommodation cannot be denied to a member of a minority group ONLY BECAUSE he is a member of such group.

V. RECOMMENDATIONS

The Committee finds discrimination in housing to be (1) morally indefensible, and (2) a violation of individual liberties which are inherent in the concepts of freedom and equality of American democracy and which are specifically guaranteed in the Bill of Rights.

The harmful effect of this practice is felt by the individual through loss of dignity and resultant social alienation. To the degree that discrimination in housing results in segregation in schools, recreational and professional facilities, business districts, and church and service organizations, the social costs to the community are great in increase of inter-group tensions, crime, loss of private revenue and added tax burdens.

The composite moral effect is the creation of a social maladjustment through the denial to most of the citizens of Berkeley of the right of all races to live and learn together through the channels of education, religion, commerce and neighborliness.

The accumulated results of discrimination and segregation, burdening all citizens with social, economic and spiritual loss, are of such magnitude as to warrant immediate community action.

Therefore:

A. The Committee to Study Discrimination in Housing in Berkeley unanimously recommends that the City Council create, through an enabling ordinance, a Commission on Intergroup Relations, with an adequate professional staff, as customarily empowered, which will have the following duties:

1. A continuing study of discrimination in housing for the information of both the City Council and the citizens of the community.

2. A program of public education and public relations to attempt to mitigate and adjust problems arising from discriminatory practices.

3. Investigation of complaints received from parties and initiation of investigations when necessary.

4. Conciliation of disputes between parties arising from complaints of discrimination in housing.

5. Conducting of public hearings between the parties in the event that the conciliatory process fails.

B. Recognizing that the problems created by discrimination in housing transcend municipal boundaries, the Committee unanimously recommends that the City Council forcefully adopt a course of action designed to influence our state and national governments to create adequate and unequivocal legislation which will make discrimination in housing unlawful, with appropriate conciliatory machinery to facilitate the large scale-adjustment in attitudes and practices necessary.

C. The Committee is aware of the present confused state of the law, but as it appears that a large number of housing transactions in the City of

Berkeley may not be covered by State law on discrimination in housing, the Committee recommends that the City Council, either through another or the same ordinance, make it unlawful to discriminate on the basis of race, color, creed or national origin, in the sale or rental or transfer for value of a housing unit to another person, with the exception of religious and fraternal institutions. A further exception is the rental of structures containing no more than two housing units, if the lessor be in residence. (Vote: 10 Aye; 5 No.)

The Committee recommends that this ordinance make it unlawful to incite or induce, either by word or deed, another to violate the provisions of this ordinance. (Vote: 14 Aye; 1 No.)

The Committee recommends that violation of any of the provisions of this ordinance shall carry the following penalties:

1. A right to civil damages in the aggrieved person.

(Vote: 13 Aye; 2 No.)

2. Should the attempts of the Commission on Intergroup Relations at conciliation and after public hearings fail, and if the Commission finds that an individual or organization has committed an unlawful act, the Commission shall certify the case to an appropriate department of the City of Berkeley, which shall, either through the City Attorney or otherwise, provide counsel to the aggrieved person in order to seek his civil remedy through the courts. (Vote: 11 Aye; 4 No.)

3. A fine or a county jail sentence or both. (Vote: 8 Aye; 7 No.)

In considering the content of the above proposed ordinance, the Committee reviewed three proposed ordinances, copies of which appear in Appendix F.

The most closely decided vote, as indicated above, was on the recommendation for a penal provision.

Proponents argued that because court action would only be invoked after a person had been found to have violated the ordinance by three separate reviews of the facts, including a public hearing, and to have refused conciliation by the Commission, it seemed only reasonable that the City's ordinance be enforced by the same penalties as are invoked in the violation of traffic laws.

The opposition to the recommendations in C is based on the opinion that the public hearing or the threat of one is the most powerful deterrent to discriminatory practices and that penalties of civil damages, jail sentences and fines are too drastic, and will arouse opposition to the real aims of the ordinance. The position taken by members of the Committee present and voting is recorded in parentheses beside each section.

VI. ACKNOWLEDGMENTS

The Committee acknowledges with gratitude the assistance of various groups and individuals.

The Japanese American Citizens' League, the National Association for the Advancement of Colored People, and the Committee on Racial Equality presented reports.

The Berkeley Committee for Fair Housing and the Catholic Interracial Council were responsible for bringing cases of discrimination in housing to the attention of the Committee. The Berkeley Committee on Fair Housing also provided our Committee with pertinent census information and maps.

From the City of Berkeley, John D. Phillips, City Manager, Robert T. Anderson, City Attorney, William B. Nixon, Urban Renewal Coordinator, and Mrs.

Florence Casaroli, Acting Executive Secretary of the Community Welfare Commission, who was Secretary to this Committee, were generous of their time and assistance.

Professor Davis McEntire, University of California School of Social Welfare, and Professors Sho Sato and Ira M. Heyman of the faculty of the University of California School of Law, assisted the Committee in providing information. Father Richard Roberts, Assistant Professor of Political Science, University of Santa Clara, met with the Committee to discuss housing legislation in other communities.

Inasmuch as individuals who appeared before the Committee or were interviewed by Committee members were not publicly identified, only their valuable contributions can be recognized. Members of the lending and real estate industries were generous in the time they gave in interviews with Committee members. Mrs. Ina Graham gave much time to the Committee in the preparation of minutes and informational materials.

CITIZENS' COMMITTEE TO STUDY DISCRIMINATION
IN HOUSING IN BERKELEY

Berkeley, California

July, 1962

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